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FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO October 29 20 01  
BY Valerie Moore ANALYST

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BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 1 [REDACTED]

ACCUSATION

Physician and Surgeon Certificate No. [REDACTED]

Respondent

Complainant alleges:

PARTIES

1. Complainant Ronald Joseph ("Complainant") is the Executive Director of the Medical Board of California ("Board") and brings this Accusation solely in his official capacity.

2. On or about August 1, 1977, Physician and Surgeon's Certificate No. [REDACTED] was issued by the Board to respondent [REDACTED] ("respondent"), and at all times relevant to the charges brought herein, this license has been in full force and effect. Respondent's license is currently valid, with an expiration date of March 31, 2002.

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**JURISDICTION**

3 This Accusation is brought before the Division of Medical Quality  
("Division") of the Board under the authority of the following sections of the Business and  
Professions Code ("Code"):

A. Section 2227 of the Code provides that a licensee who is found guilty  
under the Medical Practice Act may have his license revoked, suspended for a period not  
to exceed one year, placed on probation and ordered to pay the costs of probation  
monitoring, or subjected to such other action taken in relation to discipline as the  
Division deems proper.

B. Section 2234 of the Code provides that the Division shall take action  
against any licensee who is charged with unprofessional conduct and that unprofessional  
conduct includes, but is not limited to, the following:

"(b) Gross Negligence

"(c) Repeated negligent acts.

"(d) Incompetence"

C. Section 2236(a) of the Code, provides, in part, that the conviction of any  
offense substantially related to the qualifications, functions, or duties of a physician and  
surgeon constitutes unprofessional conduct within the meaning of the Medical Practice  
Act and that the record of conviction shall be conclusive evidence only of the fact that the  
conviction occurred. Section 2236(c) of the Code provides, in part, that the division may  
inquire into the circumstances surrounding the commission of a crime in order to fix  
the degree of discipline or to determine if the conviction is substantially related to the  
qualifications, functions or duties of a physician and surgeon.

D. Section 2239(a) of the Code provides, in pertinent part, as follows: "The  
use . . . of alcoholic beverages, to the extent, or in such a manner as to be dangerous or  
injurious to the licensee, or to any other person, or to the public, or to the extent that such  
use impairs the ability of the licensee to practice medicine safely . . . constitutes  
unprofessional conduct."

1           E.     Section 2350(e) of the Code provides that any physician and surgeon  
2 terminated from the Board's Diversion Program for failure to comply with program  
3 requirements is subject to disciplinary action by the division for acts committed before,  
4 during, and after participation in the diversion program.

5           F.     Section 2354 of the Code states: "Each physician and surgeon who  
6 requests participation in a diversion program shall agree to cooperate with the treatment  
7 and monitoring program designated by the program manager. Any failure to complete  
8 successfully a treatment and monitoring program may result in the filing of an accusation  
9 for discipline which may include any acts giving rise to the original diversion."

10          G.     Section 125.3 of the Code provides, in part, that the Board may request  
11 the administrative law judge to direct any licensee found to have committed a violation  
12 or violations of the licensing act to pay the Board a sum not to exceed the reasonable  
13 costs of the investigation and enforcement of the case. A certified copy of the actual  
14 costs, or a good faith estimate of costs where the actual costs are not available, signed by  
15 the Board or its designated representative shall be *prima facie* evidence of reasonable  
16 costs of investigation and prosecution of the case. The costs shall include the amount of  
17 investigative and enforcement costs up to the date of the hearing, including, but not  
18 limited to, charges imposed by the Attorney General.

19          4.     Section 14124.12 of the Welfare and Institutions Code provides:

20           “(a)   Upon receipt of written notice from the Medical Board of California, the  
21 Osteopathic Medical Board of California, or the Board of Dental Examiners of California  
22 that a licensee's license has been placed on probation as a result of disciplinary action,  
23 the department may not reimburse any Medi-Cal claim for the type of surgical service  
24 or invasive procedure that gave rise to the probation, including any dental surgery or  
25 invasive procedure, that was performed by the licensee on or after the effective date  
26 of the probation and until the termination of all probationary terms and conditions or  
27 until the probationary period has ended, whichever comes first. This section shall apply  
28 except in any case in which the relevant licensing board determines that compelling  
circumstances warrant continued reimbursement during the probationary period of any  
Medi-Cal claim, including any claim for dental services, as so described. In such a case,  
the department shall continue to reimburse the licensee for all procedures, except for  
those invasive or surgical procedures for which the licensee was placed on probation.

          “(b)   The Medical Board of California, the Osteopathic Medical Board of  
California, and the Board of Dental Examiners of California shall work in conjunction  
with the State Department of Health Services to provide all information that is necessary

1 to implement this section. The boards and the department shall annually report to the  
2 Legislature by no later than March 1 the number of licensees of these boards placed on  
probation during the immediately preceding calendar year, who are:

3 “(1) Not receiving Medi-Cal reimbursement for certain surgical  
4 services or invasive procedures, including dental surgeries or invasive  
procedures, as a result of subdivision (a).

5 “(2) Continuing to received Medi-Cal reimbursement for certain  
6 surgical or invasive procedures as a result of a determination of compelling  
circumstances made in accordance with subdivision (a).

7 “(c) This section shall become inoperative on July 1, 2003, and as of January  
8 1, 2004 is repealed, unless a later enacted statute that is enacted before January 1, 2004,  
deletes or extends the dates on which it becomes inoperative and is repealed.”

9 **RESPONDENT'S SUBSTANCE ABUSE HISTORY**

10 5. Respondent took his first alcoholic drink at the age of 19. During his  
11 undergraduate years, he drank at social functions and experimented with hallucinogens,  
12 Cannabis, and amphetamines.

13 6. During the first two years of medical school, respondent drank alcoholic  
14 beverages frequently and smoked Cannabis daily. In the third and fourth years of medical  
15 school, respondent ceased smoking Cannabis, but continued to drink alcoholic beverages  
16 frequently.

17 7. At age 28, respondent noticed that his drinking was escalating, and he  
18 began to smoke Cannabis again. At age 31, he was introduced to cocaine. In 1982, respondent  
19 married and began a family. Respondent continued to drink alcoholic beverages and found he  
20 could not stop. Respondent's wife was also alcoholic, but she did not drink during her  
21 pregnancies and was more successful at remaining sober overall.

22 8. He began an “ER” physician's registry, [REDACTED]  
23 where he was Chief Executive Officer, sending physicians to hospital emergency rooms that  
24 needed staffing. He traveled extensively and frequently filled in at emergency rooms. His work  
25 became more stressful with greater success. He typically drank alcohol at lunch and again at  
26 4:00 or 5:00 p.m. Then, he would go to a local bar for mixed drinks and then go home.  
27 Sometimes he would buy a half pint of gin before going home and consume as much as half the  
28 bottle in the car on his way home. He also intermittently used cocaine. This pattern persisted

1 until December 1995.

2 9. In December of 1995, respondent realized his drinking was out of control  
3 and entered a 21 day treatment program at Sierra Tucson in Arizona. He only attended two  
4 weeks, but after treatment, he attended AA meetings and [REDACTED] s support groups. In  
5 January of 1996, respondent stopped attending AA meetings and Boynton's groups and once  
6 again resumed drinking alcoholic beverages heavily. In late 1997, respondent's wife filed for  
7 legal separation because of his uncontrolled drinking, but the couple were never physically  
8 separated.

9 **FIRST CAUSE FOR DISCIPLINE**

10 (Conviction of a Substantially Related Crime)

11 10. On or about January 3, 2000, respondent began drinking alcoholic  
12 beverages early in the morning on his way to an emergency room shift in Susanville, California.  
13 Respondent drove from his home to the airport to catch a flight to Reno, Nevada. Once in Reno,  
14 respondent rented a car to drive to Susanville, and he bought and consumed cognac and other  
15 alcoholic drinks. On State Route (SR) 139, approximately 7.5 miles south of Eagle Lake Road,  
16 respondent was driving at about 70 m.p.h., northbound, and did not note a 35 m.p.h. warning sign  
17 before a right bend in the road. He drove into the bend too fast, lost control of the rental car, and  
18 hit the embankment on the east side of the road. The car rolled over on its top and came to rest  
19 in the northbound lane of SR 139, facing in a southeasterly direction. This occurred at  
20 approximately 8:15 p.m.

21 11. California Highway Patrol officer [REDACTED] arrived at the scene at  
22 approximately 8:55 p.m. and noted that respondent had cuts and scrapes on his hands and that his  
23 breath smelled of alcohol. Officer [REDACTED] noted that respondent had blood shot, watery eyes and  
24 a slight slur to his speech. He asked respondent whether he had been drinking and how much,  
25 and respondent replied, "Too much." Respondent failed a field sobriety test. Officer [REDACTED]  
26 arrested respondent for a violation of Vehicle Code section 23152(a) [Operating a Motor Vehicle  
27 While Intoxicated] and explained to respondent his rights. Respondent chose to take a blood test,  
28 and officer [REDACTED] transported him to [REDACTED] Hospital, where a blood sample was

1 taken at approximately 10:10 p.m. and where respondent's cuts and scrapes were treated.  
2 Respondent was then taken to the Lassen County Jail, where he was booked and spent the next  
3 eight hours. Respondent's blood alcohol content, by blood test, was found to be .16%.

4 12. On or about February 3, 2000, a complaint was filed in Lassen County  
5 Municipal Court charging respondent with a violation of Vehicle Code section 23152(a).  
6 Respondent failed to appear at his arraignment on February 14, 2000, and a bench warrant was  
7 issued on February 16, 2000. The arraignment was reset for March 6, 2000, and the warrant was  
8 recalled on waiver of respondent's personal presence by his counsel. On or about July 10, 2000,  
9 respondent pleaded guilty to a misdemeanor violation of Vehicle Code section 23152(a) and was  
10 sentenced to 36 months summary probation, five days in the county jail, a fine of \$1418.00, a  
11 drinking driver's program, a license restriction for 90 days, and no alcohol.

12 13. Respondent's conduct, as set forth above, constitutes the conviction of a  
13 crime substantially related to the qualifications, functions and duties of a physician and surgeon  
14 and therefore cause exists for disciplinary action pursuant to sections 2236(a) and 2234 of the  
15 Code.

16 **SECOND CAUSE FOR DISCIPLINE**

17 (Use of Alcohol)

18 14. The allegations contained in paragraphs 10 through 12, above, are  
19 incorporated herein by reference as if fully set forth.

20 15. Respondent's conduct, as set forth above, constitutes the use of alcoholic  
21 beverages to the extent or in such a manner as to be dangerous to himself, others, and to the  
22 public, and/or to the extent that such use impaired the ability of respondent to practice medicine  
23 safely, and therefore cause exists for discipline pursuant to sections 2239(a) and 2234 of the  
24 Code.

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1                   21.     On or about December 15, 2000, respondent had a meeting with the DEC  
2 for a re-evaluation post in-patient treatment. The DEC approved 20 hours per week  
3 administrative duties with one clinical shift per week at one location. Reports from the worksite  
4 monitor continued. A further review was held on or about February 9, 2001, wherein it was  
5 found that respondent was using his recovery program to deal with work related stresses and that  
6 respondent's program should continue unchanged.

7                   22.     On or about February 20, 2001, respondent reported to his group facilitator  
8 that he had relapsed and had consumed alcoholic beverages on February 19<sup>th</sup> and 20<sup>th</sup>.  
9 Respondent cited work stressors as leading to his relapse. The relapse was reported to  
10 respondent's case manager, who informed program staff and respondent's case consultant. The  
11 case manager instituted a plan whereby respondent would cease clinical practice and  
12 administrative travel immediately and recommended a return to Springbrook Northwest for in-  
13 patient treatment. The DEC was advised of the relapse and was requested to follow up.

14                  23.     On or about February 23, 2001, the DEC met and discussed respondent's  
15 relapse. The DEC wrote respondent, encouraging him to return to Springbrook Northwest  
16 despite certain resentments he harbored about that treatment program. On or about February 26,  
17 2001, respondent met with the case manager and the group facilitator and announced that he had  
18 no plans to continue with the Diversion Program at that time. Respondent continued to refuse to  
19 return to the Springbrook treatment facility, and effective April 10, 2001, the DEC terminated  
20 respondent unsuccessfully from the Diversion Program.

21                  24.     On or about April 23, 2001, the Program Manager of the Board's  
22 Diversion Program notified the Medical Board's enforcement program that respondent was  
23 terminated from the Diversion Program for reasons other than successful completion and that  
24 respondent presented a threat to public health or safety.

25                  25.     Respondent's conduct, as described above constitutes a failure to  
26 cooperate with the requirements of the Diversion Program and a failure to successfully complete  
27 his diversion program. Therefore, cause exists for discipline pursuant to section 2354 of the  
28 Code.




1 PRAYER

2 WHEREFORE, complainant requests that a hearing be held on the matters herein  
3 alleged, and that following that hearing, the Division issue a decision:

- 4 1. Revoking or suspending Physician and Surgeon Certificate No. [REDACTED]  
5 heretofore issued to respondent [REDACTED]  
6 2. Prohibiting respondent from being the supervisor of a physician assistant;  
7 3. Ordering respondent to pay the Division the actual and reasonable costs of  
8 investigation and enforcement of this case, and if placed on probation, the costs of  
9 probation monitoring; and  
10 4. Taking such other and further action as the Division deems necessary and  
11 proper.

12  
13 DATED: October 29, 2001.

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16 RONALD JOSEPH  
17 Executive Director  
18 MEDICAL BOARD OF CALIFORNIA  
19 Department of Consumer Affairs  
20 State of California

21 Complainant  
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